ANNUAL REVIEWS **Further**

Click here for quick links to Annual Reviews content online, including:

- Other articles in this volume
- Top cited articles
- Top downloaded articles
- Our comprehensive search

Annu. Rev. Law Soc. Sci. 2008.4:13-29. Downloaded from arjournals.annualreviews.org
by Swiss Academic Library Consortia on 05/25/10. For personal use only.

Conditionality: Forms, Function, and History

Sarah L. Babb[1,*] and Bruce G. Carruthers[2,*]

[1]Department of Sociology, Boston College, Chestnut Hill, Massachusetts 02467; email: babbsa@bc.edu

[2]Department of Sociology, Northwestern University, Evanston, Illinois 60208; email: b-carruthers@northwestern.edu

Annu. Rev. Law Soc. Sci. 2008. 4:13–29

First published online as a Review in Advance on July 28, 2008

The *Annual Review of Law and Social Science* is online at lawsocsci.annualreviews.org

This article's doi: 10.1146/annurev.lawsocsci.4.110707.172254

Copyright © 2008 by Annual Reviews. All rights reserved

1550-3585/08/1201-0013$20.00

*Authors' names are listed alphabetically; both contributed equally to this review.

Key Words

IMF, World Bank, international financial institutions

Abstract

The International Monetary Fund (IMF) is famous for its practice of conditionality—making the disbursement of resources to national governments contingent on the performance of certain policies. We survey the history of conditionality and show that the IMF is only one of many organizations that have historically engaged in this practice. Conditionality can be imposed by either private lenders (such as banks) or official organizations (such as international financial institutions), through a range of policy instruments, and to serve different kinds of goals. Over the course of the twentieth century, the conditionality of private lenders came to be replaced by official conditionality and was increasingly applied exclusively to the governments of developing countries. Today, conditionality is being used by more official organizations to address a broader range of goals than ever before. At the same time, however, conditionality is beset by critics who argue that it is illegitimate or ineffective. In response to such criticisms, the IMF and other practitioners of conditionality have developed new techniques and have attempted to bolster their legitimacy by making their operations more transparent and by emphasizing recipient-country participation.

Annu. Rev. Law. Soc. Sci. 2008.4:13-29. Downloaded from arjournals.annualreviews.org
by Swiss Academic Library Consortia on 05/25/10. For personal use only.

In February 2003, the president of Bolivia announced a new austerity program. By raising income taxes, cracking down on public spending, and slashing the budget deficit, Bolivian government officials hoped to satisfy the demands of the International Monetary Fund (IMF) and secure a much-needed loan. The popular reaction was swift, widespread, and unequivocal: Protests and political marches broke out, leading to violent confrontations with the army. Government troops killed a number of protestors, including striking policemen. Within days the president had to be smuggled out of his palace hidden inside an ambulance, and before the year was out, he was forced from office amid great political tumult (Forero 2003, Postero 2005). This was not the first time IMF policies provoked popular resistance, nor will it be the last, but it illustrates the impressive ability of the IMF to impose even deeply unpopular measures on sovereign governments.

At the heart of the controversy in Bolivia in 2003, as in many countries before and since, was conditionality, a practice through which the IMF and other lenders and aid agencies attach strings to the financial resources they provide. This review seeks to place such controversies in perspective. We begin by defining conditionality and by examining its varying features. We then review the historical antecedents of IMF conditionality and examine the expansion of conditionality to new organizations and policy arenas since the 1980s. Finally, we look at recent debates surrounding the legitimacy and efficacy of conditionality and speculate about the uncertain future of this highly contested policy tool.

WHAT IS CONDITIONALITY?

According to the *Oxford English Dictionary*, conditionality means "the quality of being conditional." In the policy parlance of the IMF and other official donors, however, the meaning of the term is much more specific. A country borrowing from the IMF is not free to do as it pleases with the loan it receives; rather, it must follow a set of predetermined policy conditions. Failure to comply can endanger the full disbursement of the loan[1] and even the provision of subsequent loans.

IMF-style conditionality, as the Bolivian episode suggests, can be very controversial. In this respect, it contrasts markedly with superficially similar practices among private lenders and borrowers. Banks and other lenders often put terms into loan contracts that require a private borrower to do some things or prohibit them from doing others. They may forbid the debtor from taking on new debts, or they may require it to maintain the value of particular assets or to provide timely and confidential information on its financial status to the lender. Such terms are called restrictive or protective covenants (Smith & Warner 1979, Lister 1985), and they can be quite elaborate (Rodgers 1965). In an ordinary transaction like a commercial loan, the borrower consents to them in order to get the loan. Yet it is difficult to recall a recent episode in which such conditions resulted in riots and bloodshed.

The most obvious reason IMF loans generate more controversy is that the IMF deals exclusively with sovereign borrowers. The modern norms of democracy and national sovereignty suggest that nation-states should manage their own internal affairs and that these policies should answer to the will of domestic electorates. Thus, unlike conditional loans to private businesses and individuals, conditional loans to nation-states necessarily involve messy questions of national sovereignty and internal politics. The circumstances of IMF lending sharpen the problem in that it is often countries experiencing severe financial problems that seek assistance, under circumstances in which the balance of power strongly favors the lender. The IMF risks appearing to exploit the vulnerability of such a country in order to

[1]For historical reasons, the IMF does not refer to its lending arrangements as loans. However, for the purposes of semantic simplification, we use the term loan throughout this review. Unlike the IMF, the World Bank and regional development banks have always used the term loan to refer to their activities.

impose onerous conditions from the outside. For the purposes of this essay, we define conditionality as the placement of policy conditions on the disbursement of financial resources to national governments.

VARYING FEATURES OF CONDITIONALITY

Conditionality, as we have defined it here, applies exclusively to sovereign borrowers or aid recipients. Yet not all conditionalities are alike; indeed, they vary systematically. One significant dimension of variation concerns the agent requiring the conditions. Conditionality can be required by multilateral organizations, including the IMF and World Bank, bilateral aid organizations, such as USAID, or private lenders. Which sort of agent is responsible for imposing loan conditions can be extremely significant. For example, whereas private lenders are exclusively interested in conditions that narrowly secure the repayment of the loan, official lenders (both bilateral and multilateral) operate in pursuit of a much wider range of goals, such as international monetary cooperation, the pursuit of specific economic interests, enhancing global security, or fighting AIDS in Africa. Unlike private conditionality, therefore, official conditionality is prone to mission creep or expansion beyond its original mandate (Einhorn 2001, Babb & Buira 2005).

A second dimension of variation concerns the instruments through which conditionality is imposed. The IMF is most famous for ex ante conditionality, in which governments receive loans in exchange for promises of future behavior. Disbursements are phased into periodic installments, or tranches, and can be cut off in cases of noncompliance. To determine whether the promises are being kept, the lender monitors the behavior of borrowers through reviews in which IMF staff members periodically meet with Finance Ministry officials to scrutinize recent government accounts. To avoid the complicated monitoring problems of ex ante conditionality, the IMF and other lenders may opt instead for ex post conditionality, in which conditions must be fulfilled first, before any resources are disbursed (Adam 2004, Kilby 2005). Still another instrument for ensuring compliance is known as cross-conditionality, in which compliance is rewarded by money from more than one lender—and noncompliance is similarly punished by multiple lenders cutting off access to funds (Dell 1988). For example, since the 1980s, many borrowers from the World Bank have had to sign off on "Policy Framework Papers" developed jointly with the IMF, and hence have had to adhere to the conditions imposed by both organizations (Woods 2006, p. 49).

A third dimension of conditionality concerns the substantive content of conditions. The most traditional conditions placed on loans to sovereign governments are the financial terms of the loan, such as the interest rate and repayment schedule. Such financial stipulations, which are common to official and private creditors alike, represent the least intrusive form of conditionality and require no monitoring of borrower behavior by the lender. The lender is not concerned with the activities of the borrower, as long as the borrower pays at the agreed-upon rate on the scheduled dates; otherwise, the loan is simply canceled or rescheduled.

A somewhat more intrusive sort of conditionality concerns the macroeconomic policies of the borrowers—most commonly, requiring the borrowing government to manage particular economic variables, such as the government budget deficit, interest rates, or money supply. Sometimes such conditions are used by private creditors simply as a means to guarantee repayment; for example, borrowers may be required to earmark tax revenues for loan repayment (e.g., Avramov 2003, p. 191). When official creditors such as the IMF impose such macroeconomic conditions today, however, they are commonly justified as necessary to promote currency stability and prevent inflation (De Vries & International Monetary Fund 1987). Macroeconomic conditionality is more intrusive than financial conditionality because it requires borrowing governments to adopt particular economic policies, and it requires lenders

Annu. Rev. Law. Soc. Sci. 2008.4:13-29. Downloaded from arjournals.annualreviews.org
by Swiss Academic Library Consortia on 05/25/10. For personal use only.

to scrutinize the books of their borrowers to make sure that promises are being kept.

The most intrusive lending conditions, however, are associated with structural conditionality (see Kapur 2005). Examples of structural conditions include market-friendly or neoliberal reforms (e.g., trade liberalization and privatization) and governance reforms in areas such as national bankruptcy legislation and judicial systems (Kapur & Webb 2000). Unlike financial and macroeconomic conditionality, structural conditionality is used exclusively by official creditors such as the IMF and World Bank. Structural conditionality is broadly aimed at changing the overall architecture of national economies and/or political systems in pursuit of goals like economic growth or democratization. Structural reforms are embedded in national political systems (e.g., they have to be approved by national assemblies), and, for the borrower to reach compliance, they involve long sequences of actions that are difficult to translate into quantitative measures of progress. Consequently, structural conditionality requires a much broader and deeper monitoring of national government policies.

FROM PRIVATE TO OFFICIAL CONDITIONALITY

For centuries, lending to sovereign borrowers has presented creditors with a formidable challenge (Tsai 2000). Although lenders to governments desire repayment as much as lenders to private entities do, the kinds of conditions and covenants that work for private debtors are not suitable for public debtors. For example, a foreign creditor cannot simply insist on a contract that earmarks particular national assets as collateral, to be seized in the event of a default. Often, ownership of such assets cannot legally be transferred to foreigners. Nor can creditors use national courts to enforce their debt contracts, as if the sovereign debtor were an ordinary debtor, because of the doctrine of "sovereign immunity" (Tomz 2007, p. 158). North & Weingast (1989) note that the unique status of a sovereign debtor often makes it difficult, although not impossible, for them to credibly commit to repay a loan. Indeed, whether sovereign powers adhere to any rules or promises is a key issue: "A critical political factor is the degree to which the regime or sovereign is committed to or bound by these rules" (North & Weingast 1989, p. 803).

Even if the standard covenants work poorly for sovereign debtors, there is one sanction that remains effective: refusal to provide future loans. Summarizing several centuries of historical experience, Tomz (2007, pp. 17–19) argues that insolvent sovereign debtors often found it difficult to raise new funds, particularly when their default was not perceived to be a matter of strict economic necessity. To be an effective sanction, the boycott must be upheld by all (or almost all) potential lenders. Such a boycott does not work if one lender breaks ranks and loans more money. Therefore, lenders often organize capital cartels so that their sanctions retain their efficacy.

Although conditionality today is most commonly associated with the IMF, during the nineteenth and early twentieth centuries there were other private and quasi-public organizations that anticipated in their own actions the function that IMF conditionality performs. In the nineteenth century, the most important such organization was the London-based Corporation of Foreign Bondholders (CFB), founded in 1868 (Mauro & Yafeh 2003). Typically, members invested in state, government, or municipal bonds issued in Latin America and North America and in some of the southern European countries. At a time when reliable national economic statistics were uncommon, the CFB acquired and accumulated information about the economic and financial status of borrowing countries (Ronald 1935, p. 423; Tomz 2007, p. 81). The CFB also gave its members the opportunity to respond in a unitary fashion to whatever financial crisis rendered a sovereign debtor unable to service its debts; among other things it could threaten to withhold future financing (Fishlow 1985, p. 398; Kelly 1998, p. 41). As Mauro & Yafeh (2003, pp. 24–25)

Annu. Rev. Law. Soc. Sci. 2008.4:13-29. Downloaded from arjournals.annualreviews.org
by Swiss Academic Library Consortia on 05/25/10. For personal use only.

note, under some circumstances the CFB offered specific advice on national economic policy and could make additional loans conditional on compliance with that advice. Furthermore, the CFB sometimes could directly enforce repayment of loans by taking over a defaulting country's customs or tax revenues (e.g., Turkey and Egypt in the 1870s; see Fishlow 1985; p. 411, Kelly 1998, p. 42). This organization served as a model for bondholder interest groups in other countries, including the U.S. Foreign Bondholders Protective Council (Ronald 1935; Tomz 2007, p. 82).

The late nineteenth century was a high point for free trade and integration of the global economy (Eichengreen 1996, Gilpin 2000, James 2001). In that period, the CFB functioned like the IMF in some respects and even practiced a weak version of conditionality. For example, in 1876 it encouraged Paraguay to establish a central bank, and at other times it pressured various debtor countries to balance their budgets (Mauro & Yafeh 2003, p. 25). Following the collapse of global trade and capital flows during World War I, a number of attempts were made to rebuild the prewar system, particularly the gold standard, but these failed. During the interwar period, the League of Nations stepped in to fill some of the functions previously fulfilled by the CFB and other bondholder committees (Pauly 1997, Avramov 2003). Unlike the CFB, the League was intended to play a more public role in managing international trade and finance. For example, the League intervened in 1923 to help Austria deal with its financial problems, negotiating a loan and ensuring repayment by taking control of customs revenues, demanding large budget cuts, and insisting on a significant measure of fiscal rectitude (James 2001, pp. 38–39; James 2003, p. 78). Within the League, the Economic and Financial Organization (EFO), based in Geneva, built the kind of analytical capacity to offer economic policy advice that the IMF later developed (Pauly 1997, pp. 67–68). And a number of EFO personnel were influential in the Bretton Woods negotiations that designed both the IMF and the World Bank for the post–World War II era (Pauly 1997, pp. 74–75).

By the time of the IMF's founding in 1944, the practice of conditionality had ample historical precedent. However, during its first half decade of existence, the IMF did not engage in conditionality. The principal sponsors of the IMF were the United States and Great Britain; its chief architects were the famous British economist John Maynard Keynes and Harry Dexter White of the U.S. Treasury Department. In these founding fathers' vision, the IMF would help member governments stabilize their currencies without resorting to the currency controls that had disrupted international commerce since the 1930s. In joining the IMF, members committed to pegging the value of their currencies to the U.S. dollar, to making progress toward dismantling currency controls, and to consulting with the IMF before engaging in currency devaluation. In times of temporary crisis, members were entitled to draw on IMF resources to help stabilize their currencies. Meanwhile, the IBRD (International Bank for Reconstruction and Development) would provide loans to help rebuild the economies destroyed by World War II and to foster the economic advancement of poor countries (Woods 2006).

Keynes's original plan had explicitly rejected lending conditions (except the minimal financial conditions of payment schedules and interest), and conditionality was mentioned nowhere in the IMF's original 1944 Articles of Agreement. Yet less than two decades later, in part owing to U.S. pressure, the IMF was already famous for attaching macroeconomic conditions to its loans, particularly in Latin America, where early IMF conditionality was developed and tested (De Vries & International Monetary Fund 1987, Babb 2007). In Latin America, the IMF began to lengthen its stand-by arrangements (SBAs) beyond six months, consequently making loans conditional on implementation of policy rather than just commitment to policy. Soon, SBAs were paid out in installments (tranches) rather than as a single lump sum so that payment of the balance could be made

Annu. Rev. Law. Soc. Sci. 2008.4:13-29. Downloaded from arjournals.annualreviews.org
by Swiss Academic Library Consortia on 05/25/10. For personal use only.

Annu. Rev. Law. Soc. Sci. 2008.4:13-29. Downloaded from arjournals.annualreviews.org
by Swiss Academic Library Consortia on 05/25/10. For personal use only.

conditional on prior performance. SBAs began to include consultation and review clauses to ensure that borrowers met with IMF staff, and binding conditions were added to the loan arrangements (Gould 2006, pp. 48–59). These macroeconomic conditions were designed to halt inflation and restore balance-of-payments equilibrium. The most characteristic conditions were quantitative restrictions on the government's fiscal deficit and on the money supply (Cline & Weintraub 1981, pp. 175–76).

By the latter half of the twentieth century, the practice of conditionality differed from its nineteenth century antecedents in at least two respects. On the one hand, the official conditionality of the IMF had come to replace the private conditionality that had predominated a century previously. On the other hand, conditionality was steadily being transformed into a practice that was exclusively applied to poor and medium-income countries. As macroeconomic conditionality became standardized across the IMF's regional departments, and as wealthy industrialized countries began to borrow on private international capital markets, they became less interested in the IMF—which offered fewer resources with more onerous strings attached. During the international credit glut of the 1970s, more developing countries were able to borrow from private sources, and fewer were interested in going to the IMF; the Fund lost customers and even had to loosen its conditions (Polak 1991).

Yet when the credit bonanza turned into a full-blown debt crisis in the 1980s, conditionality reappeared with a vengeance (although not for developed countries). The IMF stepped in to prevent mass default by Third World borrowers—and to keep lenders from defecting by negotiating individual deals. Empowered by the renewed scarcity of alternative sources of capital and its new role as coordinator of the creditors' cartel, the IMF returned to its earlier macroeconomic stringency. In a practice reminiscent of the nineteenth century bondholders' committees, it also included conditions requiring borrowers to make regular payments on their private debts (Cline 1995, Babb & Buira 2005).

THE EXPANSION OF CONDITIONALITY

The 1980s marked a turning point for conditionality in at least two respects. First, the IMF made an unprecedented leap from macroeconomic to structural conditionality. Second, other official creditors and aid donors began to emulate the IMF by developing conditional lending practices of their own.[2] During the 1980s, the World Bank and other regional development banks[3] began to depart from their long-standing practice of lending almost exclusively for projects—tangible investments such as bridges, dams, and schools—and to engage in policy-based or program lending for policy reforms. The World Bank's structural adjustment lending facility was inaugurated in 1980 under the presidency of Robert S. McNamara (Mosley et al. 1995, Kapur et al. 1997). The original idea was innocuous enough: Heavily indebted developing countries with severe balance-of-payments problems were to be lent temporary cash. This would give them time to structurally adjust their economies to become more export oriented (McNamara & World Bank 1981).

Yet in the context of the Reagan-Thatcher revolution of the 1980s, World Bank structural and sectoral adjustment loans soon became oriented toward a more ambitious array of market-liberalizing reforms, such as privatization and trade liberalization.

A particularly important moment for the trajectory of conditionality was U.S. Treasury

[2] During the 1960s, the U.S. bilateral aid agency USAID attempted to lend conditionally to promote policy reforms in such areas as tax and administrative reform; however, these efforts to promote reform were resisted by recipient countries, and USAID consequently gave up on policy conditionality until the 1980s (Butterfield 2004, pp. 68–69).

[3] The regional development banks at the time included the Inter-American Development Bank, the Asian Development Bank, and the African Development Bank. The European Bank for Reconstruction and Development was founded later, in 1991, to provide development financing for Central and Eastern European countries.

Secretary James Baker's plan for addressing the Third World debt crisis, announced at the World Bank/IMF meetings in October 1985. The Baker Plan called on private creditors to increase their lending to heavily indebted countries, on developing countries to pull themselves out of debt through macroeconomic and market-liberalizing reforms, and on the IMF, World Bank, and regional development banks to increase lending for structural adjustment (U.S. Congr. House 1986, pp. 595–99). World Bank nonproject lending grew from less than 10% of annual loan commitments in 1981 to more than 20% in the late 1980s, and even higher in the decades that followed (World Bank 2006). In 1985, the IMF officially inaugurated its own structural adjustment facility, in which loans were linked not only to the traditional macroeconomic reforms, but also to fundamental changes in national economies. This expansion of IMF conditionality was accompanied by an official expansion in its mandate beyond the promotion of balance-of-payments stability to the promotion of economic growth (Polak 1991, p. 19).

Throughout the 1980s and 1990s, with U.S. encouragement, the IMF, the World Bank, and the regional banks engaged in increased collaboration to ensure that the terms of one organization's loans were consistent with the terms of the others. The IMF and the multilateral development banks have refrained from engaging in formal cross-conditionality, in which the failure to adhere to one lender's terms leads to withheld resources by another lender. Yet by harmonizing conditions across official creditors, the result was similar: It was much more difficult for borrowers to shop around for more lenient terms (Dell 1988, Feinberg 1988, Polak 1997, Kapur 2005, Woods 2006).

A scant decade after the inauguration of the IMF's market-liberalizing structural adjustment lending program, a new form of structural conditionality began to emerge—one that more intensively scrutinized borrowers' basic economic rules and institutions, set against an emerging standard of "good governance" (Best 2005, p. 158). For multilateral lenders and leading donor governments, governance-related conditionality represented a logical response to a series of perceived problems. These included ongoing economic stagnation in poor developing countries, particularly in sub-Saharan Africa; the wholesale economic transition of the former socialist countries of Eastern and Central European countries, which lacked the basic institutional foundations of market economies; and the need to resolve the Asian financial crisis of 1997–1998, which occurred in countries previously seen as models of financial rectitude and market-driven economic growth (Lane et al. 1999; Lindgren et al. 1999; Kapur & Webb 2000; Dreher 2002, p. 22; Carruthers & Halliday 2007). In response, multilateral lenders began to promote institutional reforms addressing such diverse issues as bankruptcy law, privatization, deregulation, the independence of national judiciaries, corruption, and the rule of law (Carothers 2006). The IMF generalized from its experiences in East Asia, Russia, and Brazil to underscore the overall importance of financial architecture and asserted the IMF's role in institutional design and governance reform (IMF 1999a, pp. 42, 46; IMF 1999b; Hagan 2001).

Now that the IMF, in collaboration with other multilateral lenders, was in the business of promoting macroeconomic stabilization, market liberalization, and governance reforms, conditionality proliferated as never before. The inclusion of multiple structural reforms in IMF programs made conditions more complex, intrusive, and difficult to enforce and was associated with a tremendous expansion in the use of prior actions and structural benchmarks to monitor compliance. Prior actions are ex post instruments that require governments to implement reforms before becoming eligible to receive an IMF loan. Structural benchmarks are incremental steps toward reform that lack the formal legal status of performance criteria. These vehicles of policy reform were used much more frequently after the introduction of structural conditionalities, and especially after the rise of governance reforms in IMF programs. For example, a November 2003 loan to

Annu. Rev. Law. Soc. Sci. 2008.4:13-29. Downloaded from arjournals.annualreviews.org
by Swiss Academic Library Consortia on 05/25/10. For personal use only.

Turkey contained only 2 performance criteria, but it contained 12 prior actions and 17 structural benchmarks, covering such diverse policy issues as the privatization of state-owned banks, bankruptcy legislation, and international accounting standards (IMF 2003). To monitor the progress of these complex, multiphase reforms, program reviews (i.e., visits by IMF staff) became more frequent, as did the discretional use of "waivers" (IMF 2002, pp. 22–24).

Conditionality also became an integral part of a series of G7-led plans for relieving the debt of Heavily Indebted Poor Countries (HIPCs) beginning in the 1990s. To become eligible for relief from unsustainable debts to wealthy governments and multilateral organizations, HIPCs were required to adhere to a matrix of World Bank and IMF conditions for a year or more. These conditions included the usual macroeconomic, market-liberalizing, and governance elements, as well as "pro-poor" policies (e.g., earmarking a portion of government revenues for social spending) (Raghavan 2001).

As the policy objectives of conditionality expanded, it was increasingly applied to political, rather than merely economic, objectives. The move toward good governance was particularly significant in this regard, opening a veritable Pandora's box of possibilities for expanding conditionality to more political areas. If multilateral organizations could require sovereign governments to change their bankruptcy laws, why not also require them to change their political regimes, human rights practices, and so on? Founded at the end of the Cold War, the European Bank for Reconstruction and Development explicitly stated in its charter that assistance would only be provided to countries committed to the rule of law, human rights, and democratic institutions (Weber 1994, p. 11). In contrast, the World Bank and IMF, which had been founded on the eve of the Cold War, mostly stuck to a more economic interpretation of governance. However, in their dealings with former Yugoslavian states in the 1990s, the United States and other major donors followed the urging of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and conditioned bilateral aid on compliance with international criminal law. Furthermore, they directed the World Bank to require similar conditions, and so helped force the Serbian and Croatian governments to cooperate in the prosecution of former political leaders such as Slobodan Milosevic for war crimes (Hagan & Levi 2005).

CONTEMPORARY DEBATES

In recent decades, conditionality has evolved beyond its modest beginnings to become a formidable, flexible, and frequently used tool. Today, most public and scholarly debates around conditionality address two main issues: first, whether it is legitimate; and second, whether it is effective. Almost all these debates have centered on the World Bank and IMF, the two organizations with the most extensive experience in conditional lending.

The Legitimacy of Conditionality

It is widely observed that the Bretton Woods twins are currently suffering from a crisis of legitimacy (e.g., Buira 2005b, Engler 2006, Best 2007, Lerrick 2007). In reality, however, this overall crisis contains at least two separate legitimation dilemmas, which we respectively categorize as procedural and technocratic, and both of which are related to conditionality.

In the language of political philosophy, both organizations suffer from a paucity of procedural justice (Rawls 1971). The policies of these organizations are made through a shareholder model that awards majority rule to the wealthy industrialized countries that finance them and that awards a leading role to the U.S. government. The United States has the largest share of votes in both organizations, veto power over their major decisions, and numerous less formal means to promote its policy agenda. Wealthy, industrialized countries control the bulk of the votes in the Bank and the Fund, and yet wealthy countries no longer borrow from these organizations and hence are not subject to the painful rigors of conditionality (Woods 2001). Even worse, for decades these policies have been

Annu. Rev. Law. Soc. Sci. 2008.4:13-29. Downloaded from arjournals.annualreviews.org
by Swiss Academic Library Consortia on 05/25/10. For personal use only.

carried out virtually in secret, with little accountability to the national publics they affect. Consequently, conditionality is often viewed as procedurally illegitimate (see Best 2007).

To go beyond the problematic legitimacy of their rulemaking procedures, international financial institutions (IFIs) can resort to their expert or technocratic legitimacy, appealing to the belief that their advice is disinterested and based on the best available scientific evidence (Best 2007). Yet here, too, there are mounting problems, particularly for the IMF. The Fund's reputation for being a neutral purveyor of good policy advice was severely damaged by its performance in the Asian financial crisis of 1997–1998, an event that the IMF not only did not prevent but, according to many observers, actually worsened. Since then, a growing number of observers have attributed the content of IMF conditionality to organizational imperatives and deficiencies rather than scientific knowledge (Barnett & Finnemore 2004). Many have decried the routinization of conditionality, in which boilerplate conditions are copied from country to country, irrespective of whether the conditions are appropriate to local circumstances (Ranis 1997, p. 78; Feldstein 1998; Stiglitz 2002, p. 47). Gould (2006) argues that the content of IMF conditionality reflects the preferences of supplementary financiers—private investors who use IMF arrangements as a signal that countries are safe for investment. For Stiglitz (2002), IMF conditionality grows out of the ideological blindness of management and staff wedded to market fundamentalism. Perhaps most damaging of all is the charge that the IMF's policies are tainted by the vested interests of the wealthy countries that control it; for example, in the Asian financial crisis, Korea was forced to adopt policies that had little to do with the problem at hand but that had long been advocated by powerful lobbyists in the United States and Japan, such as reducing trade barriers to specific Japanese products and opening Korean financial markets to foreign investors (Feldstein 1998; Blustein 2001, p. 143).

As conditionality has become more politically intrusive, and as questions about its legitimacy have mounted, a growing chorus has called for reforming the governance of the World Bank and IMF (see International Financial Institution Advisory Committee 2000, Stiglitz 2002, Buira 2005a, Woods 2006). The more radical of these proposals advocate reforming the voting structure of multilateral lenders (e.g., Stiglitz 2002, Buira 2005a). Others, such as the members of the Republican-chartered Meltzer Commission, propose a dramatic reduction in the activities of multilateral lenders, including conditionality (International Financial Institution Advisory Commission 2000).

Rather than overhauling their governing structures or drastically reducing their activities, both the World Bank and IMF have responded to their legitimacy problems with more modest reforms. One of these is transparency—making information on lending operations more publicly available (Vreeland 2006, pp. 125–26). A second response has been a new emphasis on country ownership—a somewhat tricky concept referring to "a situation in which the policy content of the [conditional lending] program is similar to what the country itself would have chosen in the absence of IMF involvement" (Khan and Sharma quoted in Vreeland 2006, p. 126). Ownership seems to involve entering into agreements only with governments that were already planning to implement the reforms in question and with more government involvement in designing the lending conditions. It is also associated with a more extensive process of consultation within the government as a whole (i.e., not just the central bank and finance ministry) and civil society groups (Vreeland 2006, pp. 126–29). However, country ownership poses its own political problems, particularly when the debtor country is undemocratic or possesses only weak checks and balances (Kapur & Naim 2005, pp. 91, 97).

The Effectiveness of Conditionality

The technocratic legitimacy of conditionality and the organizations that impose it are further undermined by considerable evidence that

Annu. Rev. Law. Soc. Sci. 2008.4:13-29. Downloaded from arjournals.annualreviews.org
by Swiss Academic Library Consortia on 05/25/10. For personal use only.

it is ineffective. Many observers from across the political spectrum today agree that conditionality is ineffective, but the nature of this ineffectiveness is interpreted in vastly different ways. During the 1980s and 1990s, as IFIs played an increasingly prominent role in advocating market-friendly reforms, economic growth in Latin America stagnated, and it actually reversed in sub-Saharan Africa. Some argue that this economic fiasco was caused by wrongheaded advice—conditionality failed because the conditions were not the right ones (e.g., Stiglitz 2002). Others claim that the advice was sound but was not consistently followed—conditionality failed because it was not conditional enough (e.g., Easterly 2001, 2006). Which sort of failure is emphasized, therefore, depends heavily on the political perspective of the observer.

This diversity of opinion is made possible by empirical evidence that is complex and sometimes ambiguous. One approach to measuring the impact of conditionality focuses on economic outcomes. Most of these studies focus on IMF lending programs, which are more uniform in content than those of other multilateral lenders. Even so, measuring the economic impact of IMF programs is complicated by the fact that countries entering into IMF agreements tend to be in crisis to begin with and would therefore be expected to exhibit worse-than-average economic performance thereafter. Cross-national quantitative studies of the impact of IMF conditionality on economic outcomes must therefore employ statistical controls for a serious selection bias. Overall, these studies suggest that IMF programs seem to strengthen national balances-of-payments but have little effect on inflation and a significantly negative effect on economic growth (see Bird 2001, Barro & Lee 2002, Vreeland 2003a, Dreher 2006.) However, some find that compliance with conditionality enhances economic performance (Noorbakhsh & Paloni 2001). Vreeland (2002, 2003b) also finds that IMF programs foster economic inequality by redistributing income away from labor and toward capital, and, consistent with this, Martin & Brady (2007) find that IMF agreements reduce unionization among ex-communist developing countries.

Thus, if the current mission of IMF conditionality is to promote economic growth and social welfare, there is evidence that it is not working. However, other cross-national studies show a significant positive effect of World Bank and IMF lending on such market-friendly reforms as deregulation, privatization of public industries, and central bank independence (Henisz et al. 2005, Kilby 2005, Polillo & Guillen 2005), suggesting that conditionality has been accomplishing its mission of structural reforms, at least to some extent.

A somewhat different approach to evaluating whether conditionality works focuses on program compliance—in other words, whether borrowing countries keep their promises to conditional lenders. Here, too, there are measurement problems. The simplest way to gauge program success is to examine completion rates—to look at what percentage of loans were fully disbursed, without suspension owing to noncompliance. For example, from 1973–1997, only 35% of IMF programs were fully completed (Bird 2001, p. 1855). But as Bird (2001) points out, program completion is a very crude instrument for measuring compliance. Compliance is a spectrum, not a binary variable. A country that has complied with many conditions may subsequently have disbursements suspended because of the failure of others; program noncompletion is not equivalent to total failure. Conversely, program completion is not necessarily equivalent to success because many governments are granted waivers despite unmet targets. More sophisticated measures of program compliance have been deployed by the staff of multilateral lenders (who have access to more fine-grained data on what happens within an individual program). Thus, for example, the IMF found that in the 1990s, 69% of prior actions and 58% of performance criteria were fully implemented (Kapur 2005).

Why do governments fail to comply fully with their prearranged agreements? The simplest answer is that policy reforms are

Annu. Rev. Law. Soc. Sci. 2008.4:13-29. Downloaded from arjournals.annualreviews.org
by Swiss Academic Library Consortia on 05/25/10. For personal use only.

Annu. Rev. Law. Soc. Sci. 2008.4:13-29. Downloaded from arjournals.annualreviews.org
by Swiss Academic Library Consortia on 05/25/10. For personal use only.

painful and politically costly. A number of observers have portrayed conditionality as a farce, in which governments knowingly make promises they have no intention of keeping and so are repeatedly granted loans that are subsequently suspended and followed by more loans. For example, Kenya was observed to have sold the same agricultural reform to the World Bank four times (Collier 1997, p. 60). In rational-choice terms, this behavior can be explained by perverse incentives on both sides of the bargaining table. The borrowing government makes promises they have no intention of keeping because this allows them to receive initial disbursements (the repayment of which will come due after government ministers are long gone). Meanwhile, IFI officials are interested in maximizing their own departmental budgets by disbursing loans, even when they are ill-conceived, and in maximizing the number of conditions (which makes them look more rigorous), making compliance even more unlikely (Lewis 1993, Mosley et al. 1995, Berg 1997, Svensson 2003). Adding to these arguments, Easterly (2001, 2006) suggests that the well-known softheartedness of international donors makes the threat to cut off loans less credible.

In reality, however, compliance with conditionality is more frequent than this rather extreme portrayal suggests. Governments often delay resorting to IFI loans until all other alternatives have been exhausted, suggesting a widespread perception that conditionality can impose unwelcome constraints (Willett 2001). The IMF is currently suffering a dramatic shrinkage of its customer base, with medium-income countries abandoning the Fund to avoid its increasingly long and intrusive list of conditions (Lerrick 2007). As discussed above, there is strong statistical evidence that IMF programs have a measurable impact on economic outcomes (even if these outcomes are not those that were intended), and data from the IFIs themselves suggest that very often conditions are met.

Clearly, conditionality is doing something. The relevant question is not why conditionality fails to exact compliance, but why it fails in some cases and succeeds in others. Compliance seems to be related to variations among different types of borrowers and lenders, as well as the bargaining position between the two. Where differences among lenders are concerned, it seems that the incentive to push loans irrespective of likelihood of compliance is much greater in the World Bank—more of a budget-maximizing organization—than in the IMF (Willett 2001). Meanwhile, some borrowers may be more likely to comply than others, depending on such factors as whether noncompliance threatens access to other sources of financing and whether they are led by sympathetic interlocutors—U.S.-trained technocrats with professional experience in IFIs, like those so prominent in Latin America in the 1990s (Edwards 1997; Babb 2001; Woods 2006, p. 71). In line with this observation, Vreeland (2003a) argues that in some cases, governments may use the IMF as a political scapegoat or precommitment device to push forward unpopular economic reforms and that the propensity to use the IMF in this way varies according to the policy preferences of the government in question. Meanwhile, according to Buira (2003), the intervention of IFIs may actually influence the outcome of contests within national governments—tipping the balance of political power toward financial authorities (particularly the central bank and finance ministry) and away from spending ministries such as those in charge of education and social welfare. In this way, IFIs may help empower the sympathetic interlocutors necessary to push through reforms.

Compliance also depends heavily on the balance of power between borrowers and lenders. For example, where debt or macroeconomic problems are particularly dire, IFIs may take advantage by imposing more stringent conditions, and borrowers are more likely to comply (Mosley et al. 1995, p. 111; Buira 2003, p. 59). Some borrowers, such as Russia in the 1990s, may be perceived as "too big to fail," a status that leads to less stringent conditions and that makes lenders reluctant to punish noncompliance with outright loan suspension (Woods 2006, pp. 114–17). Strategic allies of

the United States have been observed to receive lighter punishments for noncompliance than less important borrowers (Stone 2002, Dreher & Jensen 2007).

Unexpectedly, it appears that extreme poverty may under some conditions enhance countries' bargaining power with respect to IFIs. In both the World Bank and IMF, an identifiable group of recidivists became famous in the 1990s for entering into a loan, receiving an initial disbursement, promptly breaking their promise, and then entering into a new loan premised on the same reforms; these clients tended to be very low-income countries with low levels of capital inflows and high levels of corruption (see Mosley et al. 1995, pp. 306–7; Bird 2001, p. 1853). Most of these countries were in sub-Saharan Africa, where many governments had relatively little to lose by making false promises, since initial disbursements provided welcome cash, but the cancellation of the loan would have no impact on access to already-scarce international investment. Consequently, many of these countries accumulated mounting debts to multilateral lenders, a potential embarrassment that forced the lenders to engage in defensive lending—making new loans to keep governments from defaulting on old ones (Roodman et al. 2001).

In response to these challenges, the technology of conditionality has been evolving. Official aid agencies—from the IMF to the European Union (EU)—are increasingly relying on performance-based conditionality, including selectivity and ex post conditions—providing resources only to governments that already have a good record of compliance and/or to those that have already implemented reform. Performance-based conditionality is deemed by foreign aid agencies to be both more effective and more conducive to country ownership (Adam 2004). To avoid the trap of mounting indebtedness and defensive lending, an increasing proportion of the loans of the World Bank and its regional sisters are being disbursed as grants (Center for Global Development 2005). At the same time, there have been efforts to develop more sophisticated instruments for measuring country compliance and the effectiveness of particular kinds of conditions. These three elements—performance-based disbursement, grants, and measurable results—have been actively promoted by the George W. Bush administration and are at the core of the administration's new vehicle for bilateral aid, the Millennium Challenge Account (Soederberg 2004).

Another significant change in the technology of conditionality is the growing use of membership conditionality, where groups of countries use the prospect of membership in international organizations to leverage particular policies (Pevehouse 2002). In contrast to conditionality as we have defined it here, membership conditionality is not based on the provision of financial resources as the incentive for reform. Rather, it is premised on the fact that some international organizations offer valuable benefits to members but not to nonmembers and can therefore use this incentive to persuade prospective members to change their policies. Although some of these membership benefits are financial, many—such as preferential trade and immigration arrangements—are not.

The EU is an important example of this. It has conditioned prospective membership on the completion of a variety of policy and legal changes among aspiring members in Central and Eastern Europe (Schimmelfennig et al. 2003, Spendzharova 2003, Kelley 2004). The EU offered a spectrum of benefits, from trade agreements, to candidate status, to full membership, as incentives to encourage political and economic reform and to bring prospective members into conformity with EU standards, practices, and institutions (Grabbe 2001, 2002; Schimmelfennig & Sedelmeier 2004). Some of these conditions were targeted so that the EU would impose requirements on candidate states that were not placed on current members (Vermeersch 2002). Membership conditionality was also used to ensure quite specific forms of cooperation with other institutions, in particular to bolster the ICTY, created by the UN Security Council to prosecute war crimes committed during the violent dissolution of

Annu. Rev. Law. Soc. Sci. 2008.4:13-29. Downloaded from arjournals.annualreviews.org
by Swiss Academic Library Consortia on 05/25/10. For personal use only.

Yugoslavia. For example, the EU suspended membership negotiations with Serbia because it was not cooperating sufficiently with the ICTY in arresting and extraditing war crime suspects (Lavenex & Schimmelfennig 2007, p. 149).

The World Trade Organization (WTO) has also been a well-known practitioner of membership conditionality. To become a member of the WTO, which provides members with preferential access to international markets, governments must commit to following a host of WTO rules, including not only rules on trade liberalization, but also rules protecting intellectual property and the rights of foreign investors (Chorev 2007). In recent years, prospective members such as China have had to prove their worthiness to join by substantially lowering trade barriers and implementing other legal reforms, thereby demonstrating their commitment to WTO rules.

As a tool for securing policy reform, membership conditionality has certain advantages over the traditional, IMF-style conditionality developed in the postwar era. First, as a form of ex post conditionality (i.e., governments must complete their reforms before securing the benefit), membership conditionality avoids many of the problems of game playing, monitoring, and enforcement that plague traditional ex ante vehicles. Moreover, membership conditionality suffers from fewer legitimacy problems because the rules imposed apply—at least in theory—to all members, rather than exclusively to the poorer members applying for resources (as is the case with the IMF). In effect, membership conditionality asks prospective members to harmonize their policy standards with those of the collectivity they seek to join. In reality, the impact of such harmonization—from the extradition of war criminals to compliance with wealthy-country patent laws—falls far more heavily on some members than on others. But as with the laws governing national citizens (e.g., laws protecting private property), the legitimacy problems arising from such inequalities in outcome are tempered by the formal equality of the rules of membership.

CONCLUSION

Conditionality is a device whose features and uses have evolved substantially over the course of the past century. Drawing on private creditor practices that predated its founding, the postwar IMF developed techniques to get sovereign borrowers to adopt specific macroeconomic and other policy reforms. Since the 1980s, a growing number of organizations have come to use conditionality to fulfill an expanding array of purposes.

With the passing of time, those who would impose conditionality, and those on whom it was imposed, have increasingly had to deal with conditionality's problematic legitimacy and uncertain efficacy. The issue of legitimacy arises because the borrowers are sovereign governments, frequently from the developing world. The advanced industrial economies that disproportionately govern the IMF seldom taste the bitter economic medicine prescribed to others. Legitimacy is further undermined by the fact that conditionalities are no panacea. Their adverse consequences make them unpopular, at the same time as the positive impacts can be hard to discern. It is largely because of these problems that the IMF is currently facing a severe crisis that threatens its very future existence (see Lerrick 2007). Yet as long as organizations—whether private lenders, states, or multilateral organizations—can offer scarce resources that sovereign governments desire, potential recipients will likely be required to do things they might not otherwise do. Conditionality is thus unlikely to disappear; indeed, it may even outlive the IMF, the organization that made conditionality famous.

DISCLOSURE STATEMENT

The authors are not aware of any biases that might be perceived as affecting the objectivity of this review.

Annu. Rev. Law. Soc. Sci. 2008.4:13-29. Downloaded from arjournals.annualreviews.org
by Swiss Academic Library Consortia on 05/25/10. For personal use only.

Annu. Rev. Law. Soc. Sci. 2008.4:13-29. Downloaded from arjournals.annualreviews.org
by Swiss Academic Library Consortia on 05/25/10. For personal use only.

ACKNOWLEDGMENT

We thank Katie Halpern of Northwestern University for her excellent research assistance.

LITERATURE CITED

Adam C. 2004. Performance-based conditionality: a European perspective. *World Dev.* 32:1059

Avramov R. 2003. Advising, conditionality, culture: money doctors in Bulgaria, 1900–2000. See Flandreau 2003, pp. 190–215

Babb S. 2001. *Managing Mexico: Economists from Nationalism to Neoliberalism*. Princeton/Oxford: Princeton Univ. Press. 295 pp.

Babb S. 2007. Embeddedness, inflation, and international regimes: the IMF in the early postwar period. *Am. J. Sociol.* 113:128–64

Babb S, Buira A. 2005. Mission creep, mission push, and discretion: the case of IMF conditionality. In *The IMF and the World Bank at Sixty*, ed. A Buira, pp. 59–83. London: Anthem

Barnett MN, Finnemore M. 2004. *Rules for the World: International Organizations in Global Politics*. Ithaca, NY: Cornell Univ. Press

Barro RJ, Lee J-W. 2002. *IMF programs: Who is chosen and what are the effects?* NBER Work. Pap 8951, Natl. Bur. Econ. Res., Cambridge, MA

Berg E. 1997. Dilemmas in donor aid strategies. In *Perspectives on Aid and Development*, ed. C Gwin, JM Nelson, pp. 79–94. Washington, DC: Overseas Dev. Counc.

Best J. 2005. *The Limits of Transparency: Ambiguity and the History of International Finance*. Ithaca, NY: Cornell Univ. Press. 219 pp.

Best J. 2007. Legitimacy dilemmas: the IMF's pursuit of country ownership. *Third World Q.* 28:469–88

Bird G. 2001. IMF programs: Do they work? Can they be made to work better? *World Dev.* 29:1849–65

Blustein P. 2001. *The Chastening: Inside the Crisis that Rocked the Global Financial System and Humbled the IMF*. New York: Public Aff. 431 pp. 1st ed.

Buira A. 2003. An analysis of IMF conditionality. In *Challenges to the World Bank and IMF: Developing Country Perspectives*, ed. A Buira, G-24 Res. Progr., pp. 55–85. London: Anthem

Buira A, ed. 2005a. The Bretton Woods institutions: governance without legitimacy? See Buira 2005b, pp. 7–44

Buira A. 2005b. *Reforming the Governance of the IMF and the World Bank*. Chicago: Anthem

Butterfield SH. 2004. *U.S. Development Aid—An Historic First: Achievements and Failures in the Twentieth Century*, Vol. 108. Westport, CT: Praeger. 315 pp.

Carothers T, ed. 2006. *Promoting the Rule of Law Abroad: In Search of Knowledge*. Washington, DC: Carnegie Endow. Int. Peace. 363 pp.

Carruthers BG, Halliday TC. 2007. Law, economy, and globalization: Max Weber and how international financial institutions understand law. In *On Capitalism*, ed. V Nee, R Swedberg, pp. 128–51. Stanford, CA: Stanford Univ. Press

Cent. Glob. Dev. Work. Group. 2005. *The Hardest Job in the World: Five Crucial Tasks for the New President of the World Bank*. Washington, DC: Cent. Glob. Dev.

Chorev N. 2007. *Remaking U.S. Trade Policy: From Protectionism to Globalization*. Ithaca, NY: Cornell Univ. Press

Cline WR. 1995. *International Debt Reexamined*. Washington, DC: Inst. Int. Econ. 535 pp.

Cline WR, Weintraub S. 1981. *Economic Stabilization in Developing Countries*. Washington, DC: Brookings Inst. 517 pp.

Collier P. 1997. The failure of conditionality. In *Perspectives on Aid and Development*, ed. C Gwin, JM Nelson, pp. 51–77. Washington, DC: Overseas Dev. Counc.

Dell S. 1988. The question of cross-conditionality. *World Dev.* 16:557–68

De Vries MG, International Monetary Fund. 1987. *Balance of Payments Adjustment, 1945 to 1986: The IMF Experience*. Washington, DC: IMF. 336 pp.

Dreher A. 2002. *The development and implementation of IMF and World Bank conditionality*. Hamburg Inst. Int. Econ. Discuss. Pap. 165, HWWA, Hamburg

Dreher A. 2006. IMF and economic growth: the effects of programs, loans, and compliance with conditionality. *World Dev.* 34:769–88

Dreher A, Jensen NM. 2007. Independent actor or agent? An empirical analysis of the impact of U.S. interests on International Monetary Fund Conditions. *J. Law Econ.* 50(1):105–24

Easterly WR. 2001. *The Elusive Quest for Growth: Economists' Adventures and Misadventures in the Tropics*. Cambridge, MA: MIT Press. 342 pp.

Easterly WR. 2006. *The White Man's Burden: Why the West's Efforts to Aid the Rest Have Done So Much Ill and So Little Good*. New York: Penguin. 436 pp.

Edwards S. 1997. Trade liberalization reforms and the World Bank. *Am. Econ. Rev.* 87:43–48

Eichengreen B. 1996. *Globalizing Capital: A History of the International Monetary System*. Princeton, NJ: Princeton Univ. Press. 223 pp.

Einhorn J. 2001. The World Bank's mission creep. *Foreign Aff.* 80:22–35

Engler M. 2006. Abandoning the World Bank: pitfalls when right and left agree. *Dissent* 53:57–73

Feinberg RE. 1988. The changing relationship between the World Bank and the International Monetary Fund. *Int. Organ.* 42:545–60

Feldstein M. 1998. Refocusing the IMF. *Foreign Aff.* 77:20–34

Fishlow A. 1985. Lessons from the past: capital markets during the 19th century and the interwar period. *Int. Organ.* 39(3):383–439

Flandreau M. 2003. *Money Doctors: The Experience of International Financial Advising 1850–2000*. New York: Routledge

Forero J. 2003. Economic crisis and vocal opposition test Bolivia's president. *NY Times*, Feb. 16, p. N3

Gilpin R. 2000. *The Challenge of Global Capitalism: The World Economy in the 21st Century*. Princeton, NJ: Princeton Univ. Press. 373 pp.

Gould ER. 2006. *Money Talks: The International Monetary Fund, Conditionality, and Supplementary Financiers*. Stanford, CA: Stanford Univ. Press. 280 pp.

Grabbe H. 2001. How does Europeanization affect CEE governance? Conditionality, diffusion and diversity. *J. Eur. Public Policy* 8(6):1013–31

Grabbe H. 2002. European Union conditionality and the 'Acquis communautaire'. *Int. Polit. Sci. Rev.* 23(3):249–68

Hagan J, Levi R. 2005. Crimes of war and the force of law. *Soc. Forces* 83:1499–534

Hagan S. 2001. Global development: insolvency reform and economic policy. *Conn. J. Int. Law* 17:63–73

Henisz WJ, Zelner BA, Guillen MF. 2005. The worldwide diffusion of market-oriented infrastructure reform, 1977–1999. *Am. Sociol. Rev.* 70:871–97

Int. Financ. Inst. Advis. Comm. 2000. *Report of the International Financial Institution Advisory Commission*. Washington, DC: Int. Financ. Inst. Advis. Comm.

Int. Monet. Fund (IMF). 1999a. *Annual Report*. Washington, DC: IMF

Int. Monet. Fund (IMF). 1999b. *Orderly and Effective Insolvency Procedures: Key Issues*. Washington, DC: IMF, Legal Dep.

Int. Monet. Fund (IMF). 2002. *The Modalities of Conditionality—Further Considerations*. Washington, DC: Policy Dev. Rev. Dep., IMF. **http://www.imf.org/External/np/pdr/cond/2002/eng/modal/010802.pdf**

Int. Monet. Fund (IMF). 2003. *Annex A to 10/03 Letter of Intent for Turkey*. Washington, DC: IMF. **http://www.imf.org/External/NP/LOI/2003/tur/01/040503.pdf**

James H. 2001. *The End of Globalization: Lessons from the Great Depression*. Cambridge, MA: Harvard Univ. Press

James H. 2003. Who owns 'ownership'? The IMF and policy advice. See Flandreau 2003, pp. 78–102

Kapur D. 2005. Conditionality and its alternatives. In *The IMF and the World Bank at Sixty*, ed. A Buira, pp. 31–57. London: Anthem

Kapur D, Lewis JP, Webb RC. 1997. *The World Bank: Its First Half Century*. Washington, DC: Brookings Inst.

Kapur D, Naim M. 2005. The IMF and democratic governance. *J. Democr.* 16(1):89–102

Kapur D, Webb R. 2000. *Governance-related conditionalities of the international financial institutions*. G-24 Discuss. Pap. 6, New York and Geneva: United Nations. **http://www.unctad.org/en/docs/pogdsmdpbg24d6.en.pdf**

Annu. Rev. Law. Soc. Sci. 2008.4:13-29. Downloaded from arjournals.annualreviews.org
by Swiss Academic Library Consortia on 05/25/10. For personal use only.

Kelley J. 2004. International actors on the domestic scene: membership conditionality and socialization by international institutions. *Int. Organ.* 58:425–57
Kelly T. 1998. Ability and willingness to pay in the age of Pax Britannica, 1890–1914. *Expl. Econ. Hist.* 35:31–58
Kilby C. 2005. Aid and regulation. *Q. Rev. Econ. Finance* 45:325–45
Lane T, Ghosh A, Hamann J, Phillips S, Schulze-Ghattas M, Tsikata T. 1999. *IMF-Supported Programs in Indonesia, Korea, and Thailand: A Preliminary Assessment*. Washington, DC: IMF
Lavenex S, Schimmelfennig F. 2007. Relations with the wider Europe. *JCMS: J. Common Mark. Stud.* 45:143–62
Lerrick A. 2007. What's left for the IMF. *Wall Street J.*, April 13, p. A13
Lewis JP. 1993. *Pro-Poor Aid Conditionality*, Vol. 8. Washington, DC: Overseas Dev. Counc. 53 pp.
Lindgren CJ, Baliño T, Enoch C, Gulde AM, Quintyn M, Teo L. 1999. *Financial sector crisis and restructuring: lessons from Asia*. Occas. Pap. 188, IMF, Washington, DC
Lister RJ. 1985. Debenture covenants and corporate value. *Co. Lawyer* 6(5):209–14
Martin NM, Brady D. 2007. Workers of the less developed world unite? A multilevel analysis of unionization in less developed countries. *Am. Sociol. Rev.* 72:562–84
Mauro P, Yafeh Y. 2003. *The Corporation of Foreign Bondholders*. IMF Work. Pap. No. 03/107, IMF, Washington, DC
McNamara RS, World Bank. 1981. *The McNamara Years at the World Bank: Major Policy Addresses of Robert S. McNamara, 1968–1981*. Baltimore, MD: Johns Hopkins Univ. Press. 675 pp.
Mosley P, Harrigan J, Toye JFJ. 1995. *Aid and Power: The World Bank and Policy-Based Lending*. London/New York: Routledge. 2nd ed.
Noorbakhsh F, Paloni A. 2001. Structural adjustment and growth in sub-Saharan Africa: the importance of complying with conditionality. *Econ. Dev. Cult. Change* 49:479–509
North DC, Weingast BR. 1989. Constitutions and commitment: the evolution of institutions governing public choice in seventeenth-century England. *J. Econ. Hist.* 49:803–32
Pauly LW. 1997. *Who Elected the Bankers? Surveillance and Control in the World Economy*. Ithaca, NY: Cornell Univ. Press. 184 pp.
Pevehouse JC. 2002. With a little help from my friends? Regional organizations and the consolidation of democracy. *Am. J. Polit. Sci.* 46(3):611–26
Polak J. 1997. The World Bank and the IMF: a changing relationship. See Kapur et al. 1997, 2:473–521
Polak JJ. 1991. *The Changing Nature of IMF Conditionality, Essays in International Finance No. 184*. Princeton, NJ: Int. Finance Sect., Dep. Econ., Princeton Univ. 76 pp.
Polillo S, Guillen MF. 2005. Globalization pressures and the state: the worldwide spread of central bank independence. *Am. J. Sociol.* 110:1764–802
Postero N. 2005. Indigenous responses to neoliberalism: a look at the Bolivian uprising of 2003. *Polit. Legal Anthropol.* 28(1):73–92
Raghavan C. 2001. *Speed debt relief, delink HIPC and PRSP*. Mar. 27. TWN: Third World Network. Accessed May 30, 2008. **http://www.twnside.org.sg/title/delink.htm**
Ranis G. 1997. The World Bank near the turn of the century. In *Global Development Fifty Years After Bretton Woods: Essays in Honour of Gerald K. Helleiner*, ed. R Culpeper, A Berry, F Stewart, pp. 72–89. New York: St. Martin's
Rawls J. 1971. *A Theory of Justice*. Cambridge, MA: Belknap Press Harvard Univ. Press. 607 pp.
Rodgers C. 1965. The Corporate Trust Indenture Project. *Bus. Lawyer* 20:551–71
Ronald JH. 1935. National organizations for the protection of holders of foreign bonds. *George Washington Law Rev.* 3(4):411–53
Roodman DM, Peterson JA. 2001. *Still waiting for the Jubilee: pragmatic solutions for the Third World debt crisis*. Worldwatch Pap. 155, Worldwatch Inst., Washington, DC. 86 pp.
Schimmelfennig F, Engert S, Knobel H. 2003. Costs, commitment and compliance: the impact of EU democratic conditionality on Latvia, Slovakia and Turkey. *J. Common Mark. Stud.* 41(3):495–518
Schimmelfennig F, Sedelmeier U. 2004. Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe. *J. Eur. Public Policy* 11(4):661–79
Smith CW Jr, Warner JB. 1979. On financial contracting: an analysis of bond covenants. *J. Finance Econ.* 7:117–61

Annu. Rev. Law. Soc. Sci. 2008.4:13-29. Downloaded from arjournals.annualreviews.org
by Swiss Academic Library Consortia on 05/25/10. For personal use only.

Soederberg S. 2004. American empire and 'excluded states': the millennium challenge account and the shift to pre-emptive development. *Third World Q.* 25:279–302
Spendzharova AB. 2003. Bringing Europe in? The impact of EU conditionality on Bulgarian and Romanian politics. *Southeast Eur. Polit.* 4(2–3):141–56
Stiglitz JE. 2002. *Globalization and Its Discontents.* New York: Norton. 282 pp. 1st ed.
Stone RW. 2002. *Lending Credibility: The International Monetary Fund and the Postcommunist Transition*. Princeton, NJ: Princeton Univ. Press. 286 pp.
Svensson J. 2003. Why conditional aid does not work and what can be done about it? *J. Dev. Econ.* 70:381–402
Tomz M. 2007. *Reputation and International Cooperation: Sovereign Debt Across Three Centuries*. Princeton, NJ: Princeton Univ. Press. 299 pp.
Tsai MC. 2000. Globalization and conditionality: two sides of the sovereignty coin. *Law Policy Int. Bus.* 31:1317–29
U.S. Congr. House Comm. Appropr. Subcomm. Foreign Oper. Relat. Agencies (1981–1987). 1986. *Foreign Assistance and Related Programs Appropriations for 1987: Hearings before a Subcommittee of the Committee on Appropriations, House of Representatives*, 99th Congr., 2d sess. Washington, DC: USGPO
Vermeersch P. 2002. Ethnic mobilization and the political conditionality of European Union accession: the case of the Roma in Slovakia. *J. Ethnic Migr. Stud.* 28(1):83–101
Vreeland JR. 2002. The effect of IMF programs on labor. *World Dev.* 30:121–39
Vreeland JR. 2003a. *The IMF and Economic Development.* New York: Cambridge Univ. Press. 203 pp.
Vreeland JR. 2003b. Why do governments and the IMF enter into agreements? Statistically selected cases. *Int. Polit. Sci. Rev.* 24:321–43
Vreeland JR. 2006. *The International Monetary Fund: Politics of Conditional Lending.* New York: Routledge
Weber S. 1994. Origins of the European Bank for Reconstruction and Development. *Int. Organ.* 48:1–38
Willett TD. 2001. Upping the ante for political economy analysis of the international financial institutions. *World Econ.* 24:317–32
Woods N. 2001. Making the IMF and the World Bank more accountable. *Int. Aff.* 77:83–100
Woods N. 2006. *The Globalizers: The IMF, the World Bank, and Their Borrowers*. Ithaca, NY: Cornell Univ. Press. 253 pp.
World Bank. 2006. *Project Portfolio database*. **http://go.worldbank.org/KPMUDAVVT0**

Annu. Rev. Law. Soc. Sci. 2008.4:13-29. Downloaded from arjournals.annualreviews.org
by Swiss Academic Library Consortia on 05/25/10. For personal use only.

Annual Review of Law and Social Science

Volume 4, 2008

Contents

Home Away from Home: Collaborative Research Networks and Interdisciplinary Socio-Legal Scholarship
Stuart A. Scheingold 1

Conditionality: Forms, Function, and History
Sarah L. Babb and Bruce G. Carruthers 13

Organizations, Regulation, and Economic Behavior: Regulatory Dynamics and Forms from the Nineteenth to the Twenty-First Century
Marc Schneiberg and Tim Bartley 31

The Political Economy of American Indian Gaming
Stephen Cornell 63

After Inclusion
Devon Carbado, Catherine Fisk, and Mitu Gulati 83

Divergent Paths: Conflicting Conceptions of Employment Discrimination in Law and the Social Sciences
Robert L. Nelson, Ellen C. Berrey, and Laura Beth Nielsen 103

Providing Expert Knowledge in an Adversarial Context: Social Cognitive Science in Employment Discrimination Cases
Susan T. Fiske and Eugene Borgida 123

Failed Forensics: How Forensic Science Lost Its Way and How It Might Yet Find It
Michael J. Saks and David L. Faigman 149

Convicting the Innocent
Samuel R. Gross 173

The Psychology of Confessions
Saul M. Kassin 193

Forecasting Methods in Crime and Justice
Richard Berk 219

Annu. Rev. Law. Soc. Sci. 2008.4:13-29. Downloaded from arjournals.annualreviews.org
by Swiss Academic Library Consortia on 05/25/10. For personal use only.

Undercover Policing and the Shifting Terms of Scholarly Debate: The United States and Europe in Counterpoint
Jacqueline E. Ross 239

Jury Systems Around the World
Valerie P. Hans 275

Women in the Legal Profession
Fiona Kay and Elizabeth Gorman 299

The Reform of Legal Education in East Asia
Setsuo Miyazawa, Kay-Wah Chan, and Ilhyung Lee 333

The Countermajoritarian Difficulty: From Courts to Congress to Constitutional Order
Mark A. Graber 361

Toward a New Sociology of Rights: A Genealogy of "Buried Bodies" of Citizenship and Human Rights
Margaret R. Somers and Christopher N.J. Roberts 385

Indexes

Cumulative Index of Contributing Authors, Volumes 1–4 427

Cumulative Index of Chapter Titles, Volumes 1–4 429

Errata

An online log of corrections to *Annual Review of Law and Social Science* articles may be found at http://lawsocsci.annualreviews.org

Annu. Rev. Law. Soc. Sci. 2008.4:13-29. Downloaded from arjournals.annualreviews.org
by Swiss Academic Library Consortia on 05/25/10. For personal use only.